

§ 230.482 Advertising by an investment company as satisfying requirements of section 10.

(a) An advertisement, other than one excepted from the definition of prospectus by section 2(10) of the Act and rule 134 thereunder, shall be deemed to be a prospectus under section 10(b) of the Act for the purpose of section 5(b)(1) of the Act if:

* * * * *

(3) It states, conspicuously, from whom a prospectus containing more complete information may be obtained and that an investor should read that prospectus carefully before investing.

NOTE: The fact that the statements included in the advertisement are included in the section 10(a) prospectus does not relieve the issuer, underwriter or dealer of the obligation to ensure that the advertisement is not false or misleading.

* * * * *

(5) It does not contain and is not accompanied by any application by which a prospective investor may invest in the investment company; *Provided, however,* That a prospectus meeting the requirements of section 10(a) of the Act by which a unit investment trust offers periodic payment plan certificates may contain a contract application although the prospectus includes another prospectus that, pursuant to this rule, omits certain information required by section 10(a) of the Act regarding investment companies in which the unit investment trust invests, and

(7) In the case of an investment company that holds itself out to be a "money market" fund, it includes a prominent statement that (i) an investment in the fund is neither insured nor guaranteed by the U.S. Government and (ii) there can be no assurance that the fund will be able to maintain a stable net asset value of \$1.00 per share (or, if other than \$1.00, the applicable net asset value); *provided, however,* that a money market fund not holding itself out as maintaining a stable net asset value may omit the portion of the statement required by paragraph (a)(7)(ii) of this section.

* * * * *

§ 230.483 Exhibits for certain registration statements, financial data schedule.

If a registration statement is prepared on a form available solely to investment companies registered under the Investment Company Act of 1940,

or a business development company which is selling or proposing to sell its securities pursuant to a registration statement which has been filed under the Act, the following provisions apply:

(a) Such registration statement shall contain an exhibit index, which should immediately precede the exhibits filed with such registration statement. The exhibit index shall indicate by handwritten, typed, printed or other legible form of notation in the manually signed original registration statement the page number in the sequential numbering system where such exhibit can be found. Where exhibits are incorporated by reference, this fact shall be noted in the exhibit index referred to in the preceding sentence. Further, the first page of the manually signed registration statement shall list the page in the filing where the exhibit index is located.

(b) If any name is signed to the registration statement pursuant to a power of attorney, copies of such powers of attorney shall be filed as an exhibit to the registration statement. In addition, if the name of any officer signing on behalf of the registrant, or attesting the registrant's seal, is signed pursuant to a power of attorney, certified copies of a resolution of the registrant's board of directors authorizing such signature shall also be filed as an exhibit to the registration statement. A power of attorney that is filed with the Commission shall relate to a specific filing, an amendment thereto, or a related registration statement that is to be effective upon filing pursuant to Rule 462(b) (§ 230.462(b)) under the Act.

(c)(1) All written consents are required to be filed as an exhibit to the registration statement, together with a list thereof. Such consents shall be dated and manually signed. Where the consent of an expert or counsel is contained in his report or opinion, a reference shall be made in the list to the report or opinion containing the consent.

(2) In a registration statement filed pursuant to Rule 462(b) (§ 230.462(b)) by a closed-end company, any required consent may be incorporated by reference into the registration statement from a previously filed registration

statement related to the offering, provided that the consent contained in the previously filed registration statement expressly provides for such incorporation. Any consent filed in a Rule 462(b) (§ 230.462(b)) registration statement may contain duplicated or facsimile versions of required signatures, and such signatures shall be considered manually filed for the purposes of the Act and the rules thereunder.

(d) The registrant:

(1) May file such exhibits as it may desire in addition to those required by the appropriate form. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer;

(2) In any case where two or more indentures, contracts, franchises, or other documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, need file a copy of only one of such documents, with a schedule identifying the other documents omitted and setting forth the material details in which such documents differ from the document of which a copy is filed. The Commission may at any time in its discretion require filing of copies of any documents so omitted; and

(3) If an exhibit to a registration statement (other than an opinion or consent), filed in preliminary form, has been changed only (i) to insert information as to interest, dividend or conversion rates, redemption or conversion prices, purchase or offering prices, underwriters' or dealers' commission, names, addresses or participation of underwriters or similar matters, which information appears elsewhere in an amendment to the registration statement, or (ii) to correct typographical errors, insert signatures or make other similar immaterial changes, then, notwithstanding any contrary requirement of any rule or form, need not refile such exhibit as so amended; provided the registrant states in the amendment to the registration statement the basis provided by this rule for not refiling such exhibit. Any such incomplete exhibit may not, however, be incorporated by reference in any subsequent filing under any Act administered by the Commission.

(e) *Financial Data Schedule*—(1) *General.* (i) A Financial Data Schedule ("Schedule") shall be filed only by an electronic filer and shall set forth the financial information specified in the applicable table in paragraph (e)(4) of this section. Where required by the applicable form, an electronic filer that is a registered investment company or a business development company shall file a Schedule as an exhibit to the form in accordance with the following instructions. The Schedule shall be prepared in the format prescribed in the EDGAR Filer Manual.

(ii) The amounts reflected in the Schedule shall correspond to amounts reflected in the registrant's financial statements or notes thereto, financial schedules, registration statements, or reports (collectively, "source documents"). Amounts aggregated or combined in the financial statements should be shown as separate line items as indicated in paragraph (e)(4) of this section.

(iii) The Schedule shall be submitted as an exhibit to the filing(s) to which it relates but shall not be deemed to be filed for purposes of section 11 of the Securities Act (15 U.S.C. 77k), section 18 of the Exchange Act (15 U.S.C. 78r), section 323 of the Trust Indenture Act (15 U.S.C. 77www), or section 34(b) of the Investment Company Act (15 U.S.C. 80a-33(b)) or otherwise be subject to the liabilities of such sections, nor will it be deemed a part of any registration statement to which it relates. It shall, however, be subject to all other liability and anti-fraud provisions of the aforementioned Acts. See rule 402 of Regulation S-T (§232.402 of this chapter). A registrant that accurately extracts the Schedule information from the source document in which it appears shall not be liable, under the Securities Act, the Exchange Act, or the Investment Company Act, for such extracted information, *provided that* the extracted data were not materially false or misleading in the underlying source document.

(iv) Where a registrant has taken advantage of a temporary hardship exemption with regard to a document that is required to include a Financial Data Schedule, the Financial Data Schedule shall not be included with the

paper filing, but shall be included with the confirming electronic copy required by rule 201 of Regulation S-T (§232.201 of this chapter).

NOTE 1 TO PARAGRAPH (E)(1)(IV): A registrant's failure to furnish a Schedule under this paragraph (e) will not prevent acceptance of the filing for which the Schedule is required. However, because the Schedule may be used by the Commission staff in its review of the filing, processing of the filing may be delayed pending filing of the Schedule.

NOTE 2 TO PARAGRAPH (E)(1)(IV): Paper copies of the Financial Data Schedule are not required to be furnished with the paper copy sent to the Commission's Operations Center in Alexandria, Virginia pursuant to Rule 902(g) of Regulation S-T (§232.902(g) of this chapter), or with the paper copies of filings required by the Commission rules to be furnished to the national securities exchange or national securities association upon which the registrant's securities are listed. Similarly, no paper copy of a Financial Data Schedule is required with filings made in paper pursuant to a hardship exemption; however, any required electronic confirming copy of such filing should be accompanied by a Financial Data Schedule, where required by the applicable form.

(2) *Special Provisions.* (i) A Schedule reflecting *pro forma* financial information shall not be filed.

(ii) A registered investment company or business development company filing on a form not unique to investment companies shall prepare its Schedule in accordance with Item 601(c) of Regulation S-K (§229.601(c) of this chapter).

(3) *Format and Presentation of Schedule.* (i) At the option of the registrant, the following legend may be inserted at the beginning of any Financial Data Schedule submitted to the Commission, in the manner prescribed by the EDGAR Filer Manual:

THIS SCHEDULE CONTAINS SUMMARY FINANCIAL INFORMATION EXTRACTED FROM [identify source document(s)] AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO SUCH [source document(s)]

(ii) Amounts or items set forth in a Schedule may be qualified by cross referencing a specific footnote to the Schedule or the registrant's financial statements or other source document from which such amount or item was taken. (See the EDGAR Filer Manual

for instructions on qualifying cross references.)

(iii) Except as otherwise provided in the EDGAR Filer Manual, a response is required for each item called for in the schedule. If information required by the applicable schedule is not included in the underlying financial data because it is either immaterial or inapplicable to the registrant, the registrant shall use the value "0" (zero) in response to that item.

(4) *Contents of Financial Data Schedule.* The Schedule shall set forth the financial information and other data specified below that are applicable to the registrant.

ARTICLE 6 OF REGULATION S-X

Item No.	Item description
6-03-	Investments—cost.
6-04-4	Investments.
6-04-6	Receivables.
6-04-8	Other assets.
	Balancing amount to total assets.
6-04-9	Total assets.
6-04-	Accounts payable for securities.
6-04-13	Senior long-term debt.
	Balancing amount to total liabilities.
6-04-14	Total liabilities.
6-04-16	Senior equity securities.
6-04-16	Paid-in-capital—common shareholders.
6-04-16	Number of shares or units—current period.
6-04-16	Number of shares or units—prior period.
6-04-17(a)	Accumulated undistributed net investment income (current year).
	Overdistribution of net investment income.
6-04-17(b)	Accumulated undistributed net realized gains (losses).
	Overdistribution of realized gains.
6-04-17(c)	Accumulated net unrealized appreciation (depreciation).
6-04-19	Net assets.
6-07-1(a)	Dividend income.
6-07-1(b)	Interest income.
6-07-1(c)	Other income.
6-07-2	Expenses—net.
6-07-6	Net investment income (loss).
6-07-7(a)	Realized gains (losses) on investments.
6-07-7(d)	Net increase (decrease) in appreciation (depreciation).
6-07-9	Net increase (decrease) in net assets resulting from operations.
6-09-2	Net equalization charges and credits.
6-09-3(a)	Distributions from net investment income.
6-09-3(b)	Distributions from realized gains.
6-09-3(c)	Distributions from other sources.
6-09-4(b)	Number of shares sold.
6-09-4(b)	Number of shares redeemed.
6-09-4(b)	Number of shares issued—reinvestment.
6-09-5	Total increase (decrease).
6-09-7	Accumulated undistributed net investment income (prior year).

ARTICLE 6 OF REGULATION S-X—Continued

Item No.	Item description
6-04-17(b)	Accumulated undistributed net realized gains (prior year). Overdistribution of net investment income (prior year). Overdistribution of net realized gains (prior year).
Form N-SAR	
72F	Gross advisory fees.
72P	Interest Expense.
72X	Total expenses (gross).
75	Average net assets.
Form N-1A	
9	Net asset value per share—beginning of period.
9	Net investment income (loss) per share.
9	Net realized and unrealized gain (loss) per share.
9	Dividends per share from net investment income.
9	Distributions per share from realized gains.
9	Per share returns of capital and distributions from other sources.
9	Net asset value per share—end of period.
9	Ratio of expenses to average net assets.

[47 FR 11446, Mar. 16, 1982, as amended at 58 FR 14857, Mar. 18, 1993; 59 FR 36261, July 15, 1994; 59 FR 67761, Dec. 30, 1994; 60 FR 26618, May 17, 1995; 63 FR 13943, Mar. 23, 1998]

EFFECTIVE DATE NOTE: At 63 FR 13943, Mar. 23, 1998, in § 230.483, in the table following paragraph (e)(4), references under the heading “Form N-1A” were amended by removing the “3(a)” and inserting in their place the “9” and the references “3(b) Average debt outstanding during period.” and “3(b) Average debt outstanding per share.” were removed, effective June 1, 1998.

§ 230.484 Undertaking required in certain registration statements.

If a registration statement is prepared on a form available solely to investment companies registered under the Investment Company Act of 1940, or a business development company which is selling or proposing to sell its securities pursuant to a registration statement which has been filed under the Act, if

(a) Any acceleration is requested of the effective date of the registration statement pursuant to Rule 461 (§ 230.461), and

(b)(1) Any provision or arrangement exists whereby the registrant may indemnify a director, officer or control-

ling person of the registrant against liabilities arising under the Act, or

(2) The underwriting agreement contains provisions by which indemnification against such liabilities is given by the registrant to the underwriter or controlling persons of the underwriter and the director, officer or controlling person of the registrant is such an underwriter or controlling person thereof or a member of any firm which is an underwriter, and

(3) The benefits of such indemnification are not waived by such persons; the registration statement shall include a brief description of the indemnification provisions and an undertaking in substantially the following form:

Insofar as indemnification for liability arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

§ 230.485 Effective date of post-effective amendments filed by certain registered investment companies.

(a) *Automatic Effectiveness.* (1) Except as otherwise provided in this section, a post-effective amendment to a registration statement filed by a registered open-end management investment company, unit investment trust or separate account as defined in section 2(a)(37) of the Investment Company Act of 1940 [15 USC 80a-2(a)(37)] shall become effective on the sixtieth day after the filing thereof, or a later date designated by the registrant on the facing sheet of the amendment, which date shall be no later than